

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT WINCHESTER**

UNITED STATES OF AMERICA)	
)	Case No. 4:22-cr-25
v.)	
)	Judge Atchley
)	
DANIEL RAY RAINEY)	Magistrate Judge Lee
)	

ORDER

Magistrate Judge Susan K. Lee filed a report and recommendation recommending that the Court: (1) grant Defendant’s motion to withdraw his not guilty plea as to Count Two and Count Three of the three-count Indictment; (2) accept Defendant’s plea of guilty to the lesser included offense of the charge in Count Two, that is, possession with intent to distribute 5 grams or more of methamphetamine (actual), in violation of Title 21 U.S.C. §§ 841(a)(1), and 841(b)(1)(B) and to Count Three; (3) adjudicate Defendant guilty of the lesser included offense of the charge in Count Two, that is, possession with intent to distribute 5 grams or more of methamphetamine (actual), in violation of Title 21 U.S.C. §§ 841(a)(1), and 841(b)(1)(B) and to Count Three; (4) defer a decision on whether to accept the plea agreement [Doc. 35] until sentencing; and (5) order that Defendant remain in custody until sentencing in this matter [Doc. 41]. Neither party filed a timely objection to the report and recommendation. After reviewing the record, the Court agrees with Magistrate Judge Lee’s report and recommendation. Accordingly, the Court **ACCEPTS** and **ADOPTS** the magistrate judge’s report and recommendation [Doc. 41] pursuant to 28 U.S.C. § 636(b)(1) and **ORDERS** as follows:

1. Defendant's motion to withdraw his not guilty plea as to Count Two and Count Three of the Indictment is **GRANTED**;
2. Defendant's plea of guilty to the lesser included offense of the charge in Count Two, that is, possession with intent to distribute 5 grams or more of methamphetamine (actual), in violation of Title 21 U.S.C. §§ 841(a)(1), and 841(b)(1)(B) and to Count Three is **ACCEPTED**;
3. Defendant is hereby **ADJUDGED** guilty of the lesser included offense of the charge in Count Two, that is, possession with intent to distribute 5 grams or more of methamphetamine (actual), in violation of Title 21 U.S.C. §§ 841(a)(1), and 841(b)(1)(B) and to Count Three;
4. A decision on whether to accept the plea agreement is **DEFERRED** until sentencing; and
5. Defendant **SHALL REMAIN** in custody until sentencing in this matter which is scheduled to take place on **March 7, 2024 at 10:00 a.m. [EASTERN]** before the undersigned.

SO ORDERED.

/s/ Charles E. Atchley, Jr.

CHARLES E. ATCHLEY, JR.

UNITED STATES DISTRICT JUDGE